

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WILMINGTON DIVISION**

**IN RE:**

**CASE NO.:**

**CLIFTON CRAIG MCALLISTER**

**13-04160-8-SWH**

**DEBTOR.**

**CHAPTER 13**

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**MOTION TO DEEM MORTGAGE CURRENT**

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NOW COMES the Debtor, by and through counsel undersigned, and respectfully moves the Court for an Order declaring current the Debtor's mortgage to Seterus, Inc., servicing agent for creditor, Federal National Mortgage Association ("Fannie Mae"). In support of this Motion, the Debtor shows as follows:

1. Clifton Craig McAllister filed the above-captioned Chapter 13 case on July 2, 2013 ("Petition Date").
2. Seterus, Inc. is presently the servicing agent for creditor, Fannie Mae, with respect to a note and deed of trust as set forth in the proof of claim (Court Claim No. 4) initially filed in this case by JP Morgan Chase Bank, N.A. ("JP Morgan"). JP Morgan transferred the claim to Fannie Mae pursuant to a Transfer of Claim filed in this case on or about September 19, 2014. The deed of trust grants a security interest in the Debtor's real property occupied as his residence and located at 1022 Dock Street (also known as 101 Gores Row), Wilmington, NC 28401.

3. In accordance with the Debtor's Amended Fourth Motion to Modify Plan after Confirmation, the Court entered an Order approving the Amended Motion on or about April 2, 2018 and the plan modification authorized surrender of the residence to the creditor.
4. Since that plan modification, the creditor offered, and Mr. McAllister accepted and completed, a trial payment plan whereupon the creditor offered the Debtor a Loan Modification Agreement, a redacted copy of which was attached as Exhibit 1 to the Motion to Approve Loan Modification Agreement filed September 6, 2018. The Court entered an Order approving the Loan Modification Agreement on September 27, 2018.
5. The current monthly payments of principal, interest, taxes and insurance is \$506.18. Mr. McAllister made his October and November payments due under the Loan Modification Agreement.
6. Seterus, Inc. has advised Debtor's counsel verbally that, after application of the Debtor's November payment received by Seterus on October 19, 2018, the Debtor's unpaid principal balance on the mortgage is \$85,119.75 and that the Debtor's mortgage account is contractually current and due for a next payment on December 1, 2018.
7. Other than the principal balance stated above, the Debtor is not aware of any other permissive fees, expenses or charges accruing on the mortgage from the Petition Date through the date of this Motion that have not been paid.
8. Seterus, Inc., as servicing agent for the creditor, should be required to treat the Debtor's mortgage as reinstated and fully current through November 2018 in all obligations under the mortgage.
9. The Debtor has completed his Chapter 13 plan.

WHEREFORE, the Debtor respectfully prays the Court as follows:

- 1). That Seteurs, Inc. as servicing agent for Fannie Mae be required to treat the Debtor's mortgage as reinstated and fully current in all obligations under the mortgage through November 30, 2018, with an unpaid principal balance of the loan of \$85,119.75 as of that date;
- 2). That the Debtor's mortgage is next due for payment on December 1, 2018;
- 3). That the Debtor shall continue to remit payments directly to Seterus, Inc.; and
- 4). For such other relief as the Court deems appropriate.

This the 24<sup>th</sup> day of October, 2018.

FINANCIAL PROTECTION LAW CENTER

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**IN RE:**

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**CLIFTON CRAIG MCALLISTER**

**13-04160-8-SWH**

**DEBTOR.**

**CHAPTER 13**

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**NOTICE OF MOTION  
TO DEEM MORTGAGE CURRENT**

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**NOTICE IS HEREBY GIVEN** of the Motion for to Deem Mortgage Current filed simultaneously herewith in the above-captioned case by the Debtor, a copy of which motion is attached hereto; and

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the relief sought in Motion, or if you want the Court to consider your views on the Motion, then on or before November 19, 2018, unless otherwise ordered, you or your attorney must file with the Court, pursuant to Local Rule 9013-1 and 9014- 1, a written response, an answer explaining your position, and a request for hearing at: U.S. Bankruptcy Court, P.O. Box 791, Raleigh, NC 27602. (As a Filing User of the Court's Electronic Case Filing System you may be required to electronically file a response). If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above. You must also mail a copy to the attorney whose name appears at the bottom of this notice and to other parties in interest.

If a response and a request for hearing is filed in writing on or before the date set above, a hearing will be conducted on the Motion at a date, time and place to be later set and all parties will be notified accordingly. Any party filing a response to the Motion shall appear at any hearing in support of the objection or may be assessed with costs.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief.

Dated: October 24, 2018 FINANCIAL PROTECTION LAW CENTER

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*Attorneys for Debtor*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date the foregoing

MOTION TO DEEM MORTGAGE CURRENT  
AND  
NOTICE OF MOTION

in the above captioned case was this day served upon the below named persons as follows:

By electronic service through CM/ECF:

Jody A. Bledsoe, III  
*Chapter 13 Trustee*

Sean M. Corcoran  
Melissa Swaby  
Brock & Scott, PLLC  
*Counsel for Federal National  
Mortgage Association*

By mailing, postage prepaid, first class mail, of a copy of such instrument(s) to such persons,  
parties and/or counsel at the address shown below:

Clifton Craig McAllister  
1022 Dock Street  
Wilmington, NC 28401

Sean M. Corcoran  
Melissa Swaby  
Brock & Scott, PLLC  
8757 Red Oak Blvd., Suite 150  
Charlotte, NC 28217

FINANCIAL PROTECTION LAW CENTER

Date: October 24, 2018

By: /s/ Maria D. McIntyre  
Maria D. McIntyre, *Attorneys for Debtor*